the Common Law been introduced in accordance with the principles suggested. Clearly in *Wolfenden's* and the preceding cases the courts introduced the law only so far as applicable. In rejecting the requirement of a priest, they hardly stretched their authority far. In *Advocate General of Bengal v. Ranee Surnomoye Dossee*[28], when not dealing with a colony by settlement, but acting on similar principles, Lord Kingsdown would have discarded in addition to the Common law of suicide and forfeiture therefor, the matter then under discussion, the crimes of carnal knowledge of a child of ten and bigamy. While in *Narayana v. Kannamma*[29] the High Court of Madras, apparently regarding as anomalous the rule of Common Law, that, in an action for slander, a woman suing in defence of her chastity must, like most plaintiffs, prove special damage, refused to apply that rule of the law of slander, and, in rejecting it, seem, in fact, to have enacted for their jurisdiction the Slander of Women Act 1891.

As I understand the principles on which this court should act, we have not only authority, but are under a duty, to consider both what law is applicable and how far it is applicable. In a country where priests are few and there is no true parochial system, where the vast majority are non Christians it seems to me neither convenient nor necessary that two persons, such as these, should be required to call in an episcopally ordained priest to effect a marriage. I can see no reason to apply the personal law of one party more than that of the other. The application of the husband's "personal law," far from being necessary to avoid injustice would, in my opinion, only lead thereto, by depriving this woman who seems to have been induced to regard herself as a wife, and the child, whose paternity is not denied on any substantial ground, of what may be called their natural rights.

Appeal dismissed.

RUNME SHAW v. HABIBULAH.

[Orig. Civ. Juris. (Thorogood, J.) March 31, 1950]

[Singapore — Suit No. 571 of 1949]

Landlord and Tenant — Control of Rent Ordinance, 1947, s. 14(1)(j) — What constitutes a sub-letting — Licence to use part of premises.

In this case the plaintiff claimed possession of the premises, No. 163 North Bridge Road, on the ground that the tenant, the defendant, having sublet part of the premises received in respect of such letting rents exceeding 75% of the rent paid by him to the plaintiff. The defendant denied that he had sublet the premises and contended that he had only given licences to use parts of the premises to the persons concerned.

Held, that on the facts it appeared that the defendant did not in fact and did not intend to give exclusive possession of any part of the premises to the persons concerned and therefore the defendant had not sublet the premises or any part thereof.

Cases referred to :—

(1) *Clore v. Theatrical Properties Ltd.* (1936) 3 All E.R. 483.

(2) *Rendell v. Roman* (1893) 9 T.L.R. 192.

(3) *Taylor v. Caldwell* (1863) 122 E.R. 309.

CIVIL SUIT.

M. Brash for the plaintiff.

R. Boswell for the defendant.

The facts and arguments sufficiently appear from the Judgment.

Cur. Adv. Vult.

Thorogood, J. : — This is an action for possession of premises known as 163, North Bridge Road which premises consists of a shop, a bedroom and a kitchen.

The plaintiff is the owner. The defendant is the recognised tenant and is in possession.

The plaintiff gave defendant notice to quit on or about 14th July 1949, such notice expiring on the 31st August 1949. The plaintiff now claims possession of the premises under the provisions of Section 14(1)(j) of the Control of Rent Ordinance No. 25 of 1947 on the grounds that the defendant having sub-let part of the premises received in respect of such letting rents exceeding 75% of the rent paid by him to the plaintiff.

The defendant held the premises from plaintiff at a monthly rental of $218/75 and made arrangements with two persons namely A. Z. Mohamed Ally and Hargopal Sachdeva by which the two latter were allowed portions of the shop on payment by them to the defendant of sums amounting to $240/- per month in 1948 and thereafter to $230/- per month to September 1949. Charges for Municipal Services which it was agreed, did not amount to more than $26/- a month were paid by the defendant.

For the plaintiff, Mr. Brash maintains that the position as regards A. Z. Mohamed Ally and Hargopal Sachdeva is the same but Mr. Boswell for the defendant contends that if either of these two persons is not considered a sub-tenant of defendant, then the plaintiff's case fails as neither of them singly paid the defendant as much as 75% of the rent paid by defendant.

The only question is whether the arrangements between defendant and both of the other two users of the shop amounted to sub-letting of parts of the premises as submitted by the plaintiff or to the giving

of licences to use parts of such premises as the defendant now avers.

The plaintiff to a large extent relies upon an "admission" contained in returns signed by the defendant and submitted to the Municipality. The "admission" is that he stated in such returns that he had sub-let half of the front portion of the premises for $240 in 1948 and $230 in 1949. The defendant now qualifies such alleged admissions and says that although he signed the returns the contents thereof were unknown to him. He states that he merely answered questions put to him by a Chinese clerk employed by the Municipality to obtain information. In fact he did not sub-let any part of the shop but only gave permission for the use of parts thereof. His evidence regarding the preparation of the documents for the Municipality is not challenged.

Even an indenture which contains the usual words of demise is not regarded as a lease, if its contents show that it was not the intention of the parties that a lease should be granted, *Clore v. Theatrical Properties Ltd.*[1]. Still more then is it essential to go beyond Municipal returns prepared by one person and signed by another in ignorance of their contents and the other documents, exhibits "A" to "D", prepared by Mohamed Ally and Hargopal Sachdeva for the purposes of the Registration of Business Names Ordinance and to endeavour to ascertain what were the intentions of the defendant and the other two men when it was agreed that they should carry on their respective businesses in the same shop.

It is not disputed that defendant gave no thought as to whether he was sub-letting or getting a licence. The other two traders wished to make use of his premises in order to carry on business and he was prepared to allow them to do so at a price. He admits that the usual practice was to sub-let. A. Z. Mohamed Ally was given a portion of the shop in which to display his show-cases; H. Sachdeva was given permission to keep an almeirah belonging to him and to use another belonging to defendant at the rear of the shop. Defendant's furniture was on the left side of shop opposite Mohamed Ally's show-cases. The front shop window was used in three separate portions but the central counter and the space in the centre of the shop were used in common as required from time to time by the three tradesmen and their customers.

Mohamed Ally however maintained that from the beginning he asked for a sub-tenancy as he intended to carry on business for some time and wanted a right to a particular portion of the shop. He admits that he got no document of any sort. H. Sachdeva says that he considered himself a sub-tenant but agrees that had he been asked to leave in 48 hours at any time he would have done so. He also got no document.

It is agreed that, except for a period of one and a half years "sometime between 1945 and 1948," when Mohamed Ally says he slept on the premises, only the defendant lived on the premises; that the defendant stated that the shop would be open to the other two men from 8 a.m. to 8 p.m. on six days of the week and from 8 a.m. to 1 p.m. on Sundays; that the defendant locked up the premises at night and that the other two could not obtain access thereto until the defendant opened up. In *Rendell v. Roman*[2] it was held that the letting of space under somewhat similar terms amounted to a mere licence.

Whatever were the arrangements made regarding the use of the shop during business hours (and the evidence regarding such arrangements is very vague), it is clear that defendant did not in fact and did not intend to give exclusive possession of any part of the premises to either A. Z. Mohamed Ally or to H. Sachdeva. There is nothing which establishes the relationship of landlord and tenant between defendant and either of the other two. That being so it is unnecessary to decide whether Mohamed Ally and H. Sachdeva were on the same footing in the shop or not. In this case I can find nothing to show that defendant gave up or agreed to give up exclusive possession of any part of the premises to either A. Z. Mohamed Ally or to H. Sachdeva. Without such exclusive possession there can be no letting, *Taylor v. Caldwell*[3].

I find therefore that the defendant did not sub-let the premises or any part thereof and in consequence the plaintiff must fail.

There will be judgment for defendant with costs accordingly.

Claim dismissed.